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14 Attorneys for Defendants
BAUER'S LIMOUSINE SERVICE, INC.
15 and GARY BAUER

16 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

17 ROGER PORTER, MICHAEL KRAFT, and
18 BEN ROSS, on their own behalf and on behalf
19 of all others similarly situated,

20 Plaintiffs,

21 v.

22 BAUER'S LIMOUSINE SERVICE, INC., a
California corporation, and GARY BAUER, an
23 individual,

24 Defendants.

Case No. 3:10-CV-01074-JSW

**SECOND STIPULATION AND
[PROPOSED] ORDER RE: ADR
PROCESS**

Complaint Filed: March 12, 2010
First Amended Complaint Filed: April 9, 2010

1 The Parties to the above-entitled action jointly submit this Stipulation and [Proposed]
 2 Order regarding the alternative dispute resolution ("ADR") process, pursuant to this Court's order
 3 (issued on July 23, 2010 [*see* Doc. 27, filed 7/26/2010]) regarding the same.

4 Early Neutral Evaluation (ENE). The Parties agree to complete the ENE process
 5 provided by the Northern District no later than 120 days from the date this Order is entered by the
 6 Court or November 30, 2010, whichever is sooner. The Parties respectfully request that any ENE
 7 evaluator appointed by the Court should be well-versed in issues related to the overtime
 8 requirements of the Fair Labor Standards Act and, specifically, with respect to the exemption to the
 9 same requirements provided by the Motor Carrier Act. *See* 29 U.S.C. § 213(b)(1), 49 U.S.C. §
 10 35102.

11 Early In-Person Meeting. The Parties further agree that all reasonable efforts shall be
 12 made to hold an in-person settlement conference between counsel in this case, no later than 60 days
 13 after the entry of this Order or October 1, 2010, whichever is sooner. The Parties will make all
 14 reasonable efforts to exchange information (formally or informally) prior to that in-person meeting,
 15 so that productive settlement discussions may be had. The Parties also agree to meet and confer in
 16 good faith at such meeting, in an attempt to fully and finally resolve the issues in this action. The
 17 Parties agree that all briefing and other materials submitted at or in connection with this in-person
 18 meeting (which are created for the purpose of such meeting) shall be considered to be privileged
 19 settlement material (*see* Fed. Rule. Evid. 408).

20 Thus, the Parties, through their undersigned counsel, respectfully request that the
 21 Court enter this Stipulation as an Order.

22 **IT IS SO STIPULATED.**

23 Each of the undersigned certify that the content of the foregoing document is
 24 acceptable to all persons required to sign the document and authorization to electronically sign this
 25 document has been obtained.

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27 ///

28 ///

1 Dated: July 30, 2010

Respectfully submitted,

2
3 /s/ Benjamin K. Lunch
4 WILLIAM J. FLYNN
5 BENJAMIN K. LUNCH
Attorneys for Plaintiff
6 ROGER PORTER

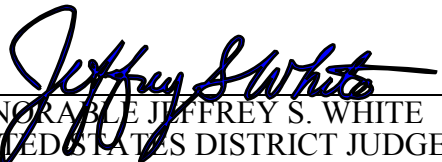
7 Dated: July 30, 2010

Respectfully submitted,

8 /s/ Joshua D. Kienitz
9 ROBERT A. HULTENG
10 JOSHUA D. KIENITZ
11 RYAN E. ABERNETHY
12 LITTLER MENDELSON P.C.
Attorneys for Defendants
13 BAUER'S LIMOUSINE SERVICE, INC.
14 AND GARY BAUER

15 **IT IS SO ORDERED.**

16 Dated: August 9, 2010

17 
18 HONORABLE JEFFREY S. WHITE
19 UNITED STATES DISTRICT JUDGE

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